

Exhibit 11

In the Matter Of:

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY

DEPOSITION OF

LLOYD R. SABERSKI, M.D.

January 12, 2017



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NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY
LLOYD R. SABERSKI, M.D. on 01/12/2017

DEPOSITION OF

1 IN THE UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3
4 IN RE NEW ENGLAND COMPOUNDING | MDL NO. 02419
5 PHARMACY, INC. PRODUCTS LIABILITY | DOCKET NO.
6 LITIGATION | 1:13-MD-2419-RWZ

7 THIS DOCUMENT RELATES TO:

8 All Actions

9
10 Deposition of LLOYD R. SABERSKI, M.D.

11 Baltimore, Maryland

12 Thursday, January 12, 2017

13 10:00 a.m.

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20 Reported by: Angela McKinney, Court Reporter
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DEPOSITION OF
Pages 162..165

<p style="text-align: right;">Page 162</p> <p>1 England Compounding Pharmacy. Manager of record is</p> <p>2 Barry Cadden. At the bottom above daily pharmacy</p> <p>3 volume, it says compounding sterile and --</p> <p>4 A Nonsterile.</p> <p>5 Q -- nonsterile. So they go through I guess</p> <p>6 and do their audit of their inspection. Would you flip</p> <p>7 to page 3 of 7. It is also Bates stamped BOP9939.</p> <p>8 It's security, 24/7 security monitoring,</p> <p>9 licensure/registration, status of pharmacy staff. They</p> <p>10 are all "yes." Standards for prescription labeling and</p> <p>11 format, they are all "yes." Do you see that?</p> <p>12 A Yes.</p> <p>13 Q It says "labels compliant with nature of</p> <p>14 practice." Do you see that?</p> <p>15 A Yes.</p> <p>16 Q So the Massachusetts Board of Pharmacy</p> <p>17 didn't have a problem with their labeling, right?</p> <p>18 MR. COREN: Objection as to form.</p> <p>19 BY MR. KIRBY:</p> <p>20 Q Prescription labeling format.</p> <p>21 A I don't know what that means.</p> <p>22 Q This is what the Massachusetts board found.</p>	<p style="text-align: right;">Page 164</p> <p>1 didn't see any problems listed.</p> <p>2 BY MR. KIRBY:</p> <p>3 Q Okay. You would expect that if the</p> <p>4 Massachusetts Board of Pharmacy was inspecting a</p> <p>5 facility, that they were doing so in an effort to make</p> <p>6 sure that they were equipped to properly do their job,</p> <p>7 right?</p> <p>8 A Yes.</p> <p>9 Q I think you talked earlier about</p> <p>10 prescriptions and you said that a patient-specific</p> <p>11 prescription was required to order drugs from NECC if</p> <p>12 there was a need?</p> <p>13 A Yes.</p> <p>14 Q We'll assume that part. Can you provide any</p> <p>15 evidence whatsoever that any health care providers</p> <p>16 actually ordered from NECC after submitting</p> <p>17 patient-specific prescriptions?</p> <p>18 MR. COREN: Objection as to the form.</p> <p>19 A I don't understand the question.</p> <p>20 BY MR. KIRBY:</p> <p>21 Q So all I want to know is do you have any</p> <p>22 evidence to show me that any customers of NECC actually</p>
<p style="text-align: right;">Page 163</p> <p>1 A But I don't know how to interpret what this</p> <p>2 means or what the standards are.</p> <p>3 Q Okay.</p> <p>4 A Whatever it says, whatever their conclusions</p> <p>5 were I don't challenge.</p> <p>6 Q Page five, continuous quality improvement</p> <p>7 was all checked "yes." Sanitation was all checked</p> <p>8 "yes." At then at the bottom on page 7 of 7 it says</p> <p>9 they service multiple states and licensed in 48 states</p> <p>10 and two that don't require licensing. Do you see that?</p> <p>11 So it looks like they were licensed in every state</p> <p>12 across the country, right?</p> <p>13 A I think there are 50 states, correct?</p> <p>14 Q I'm sorry. You are right. They sell in 50</p> <p>15 states. They are licensed in 48 and then the other two</p> <p>16 don't require licenses. I meant to say that they</p> <p>17 practice in 50 states.</p> <p>18 A Okay.</p> <p>19 Q So it looks like the Massachusetts Board of</p> <p>20 Pharmacy didn't have a problem with NECC, right?</p> <p>21 MR. COREN: Objection as to the form.</p> <p>22 A I don't know how to interpret that form. I</p>	<p style="text-align: right;">Page 165</p> <p>1 ordered their drugs and provided individual</p> <p>2 patient-specific prescriptions?</p> <p>3 A Well, I have evidence.</p> <p>4 Q Can you provide -- strike that.</p> <p>5 MR. KIRBY: Let's go off the record.</p> <p>6 (Off the record)</p> <p>7 BY MR. KIRBY:</p> <p>8 Q In reading Dr. Bhambhani's deposition and</p> <p>9 your other review of records in this case, you</p> <p>10 understand that Dr. Bhambhani and others followed</p> <p>11 NECC's instructions and used a, quote, prescription</p> <p>12 order form when ordering from NECC, right?</p> <p>13 A Yes.</p> <p>14 Q And the Massachusetts Board of Pharmacy</p> <p>15 and/or the FDA were aware of that form and the way in</p> <p>16 which NECC was sending out drugs, correct?</p> <p>17 MR. COREN: I want to note my objection to</p> <p>18 the form.</p> <p>19 A I can't speak to what the FDA knew or didn't</p> <p>20 know, but that would be inappropriate.</p> <p>21 BY MR. KIRBY:</p> <p>22 Q You said that if the FDA and/or the</p>



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Pages 166..169

<p style="text-align: right;">Page 166</p> <p>1 Massachusetts Board of Pharmacy had information that</p> <p>2 that's the way that NECC was conducting business that</p> <p>3 that would be inappropriate, correct?</p> <p>4 A Yes.</p> <p>5 Q But they didn't stop NECC from selling</p> <p>6 drugs, did they, until the outbreak?</p> <p>7 MR. COREN: Objection as to the form.</p> <p>8 A Well, they did at the outbreak.</p> <p>9 BY MR. KIRBY:</p> <p>10 Q Prior to the outbreak, they didn't stop</p> <p>11 them?</p> <p>12 A In 2002 I think they were trying to.</p> <p>13 Q They didn't prevent NECC from continuing to</p> <p>14 sell their drugs all across the country, right? Or at</p> <p>15 least in Maryland? We'll go with that.</p> <p>16 A I don't know whose jurisdiction it was for</p> <p>17 that kind of step, but that's not really my area of</p> <p>18 expertise.</p> <p>19 Q Probably should have been one or the other</p> <p>20 at least, right?</p> <p>21 A Right.</p> <p>22 Q Maybe even both?</p>	<p style="text-align: right;">Page 168</p> <p>1 BY MR. KIRBY:</p> <p>2 Q Even if she had done it that way, she still</p> <p>3 would have gotten back contaminated drugs?</p> <p>4 A I think that's basically correct, but there</p> <p>5 is a small caveat here, and we kind of pounded this to</p> <p>6 the ground earlier, that she was getting multidose</p> <p>7 vials without a preservative and by getting shipped a</p> <p>8 multidose vial without preservative, by accessing it</p> <p>9 multiple times, if that vial happened to be bad, she's</p> <p>10 potentially vectoring bad stuff to multiple people.</p> <p>11 Q But specific to the prescription issue, that</p> <p>12 in and of itself didn't have an effect? Didn't change</p> <p>13 the outcome?</p> <p>14 MR. COREN: Objection as to the form.</p> <p>15 A Probably not. I could probably draw some --</p> <p>16 we'll just say that.</p> <p>17 BY MR. KIRBY:</p> <p>18 Q Would you agree that Dr. Bhambhani was</p> <p>19 essentially ordering NECC's MPA and other drugs I guess</p> <p>20 for office use?</p> <p>21 A Well, I don't know what her facility is.</p> <p>22 Isn't it a surgery center?</p>
<p style="text-align: right;">Page 167</p> <p>1 MR. COREN: Objection as to form.</p> <p>2 BY MR. KIRBY:</p> <p>3 Q And you are not aware, and if you are, just</p> <p>4 provide me the information, that anyone at the Maryland</p> <p>5 Board of Physicians, the Board of Pharmacy, the</p> <p>6 Massachusetts Board of Pharmacy, the FDA, the CDC, the</p> <p>7 DEA, et cetera, ever told Dr. Bhambhani or anyone that</p> <p>8 they were ordering the drugs wrong and that they</p> <p>9 couldn't do it that way? You don't have any evidence</p> <p>10 of that, do you?</p> <p>11 A Two questions. I have no evidence and I'm</p> <p>12 not aware of anybody telling her that.</p> <p>13 Q Can we at least agree -- so I understand</p> <p>14 your position, then, that she was violating standards</p> <p>15 because she should have used patient-specific</p> <p>16 prescriptions or whatever. Okay. Let's assume that</p> <p>17 she had a need to use a compounding pharmacy, a</p> <p>18 justifiable need to use a compounding pharmacy, and</p> <p>19 that she was submitting individual patient</p> <p>20 prescriptions. We can at least agree that that had no</p> <p>21 effect on the patient injuries, correct?</p> <p>22 MR. COREN: Objection as to the form.</p>	<p style="text-align: right;">Page 169</p> <p>1 Q An ambulatory surgery center.</p> <p>2 A I think you have to be careful about how you</p> <p>3 use your words. A surgery center is different than an</p> <p>4 office. She may very well have been using them in</p> <p>5 both, but I'm aware of the surgery center stuff.</p> <p>6 Q Pardon my incorrect grammar, but when I said</p> <p>7 office, I was suggesting the surgery center.</p> <p>8 A Okay.</p> <p>9 Q And if she had ordered from an FDA</p> <p>10 manufacturer, she wouldn't have needed a prescription,</p> <p>11 right?</p> <p>12 A Right. FDA manufacturers, you are allowed</p> <p>13 to order a stock.</p> <p>14 Q That's essentially what Dr. Bhambhani was</p> <p>15 doing here, correct?</p> <p>16 A Right, which was against the law.</p> <p>17 Q I may have asked this before and I can't</p> <p>18 remember so I'll ask it this time. We can agree the</p> <p>19 drugs, the MPA that she's ordering is never going in</p> <p>20 the patient's hands, right? It's always going to be</p> <p>21 just used by and administered by a skilled professional</p> <p>22 like Dr. Bhambhani, correct?</p>



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